

POLICY NUMBER: 205.19  
DIVISION: Environmental Public Health  
POLICY TITLE: Health and Safety Hazards – Investigation and Enforcement  
AGENCY: Lincoln-Lancaster County Health Department (LLCHD)  
AUTHORITY: Board of Health  
DRAFTED:  
APPROVED:  
REVISED:  
REVIEWED:

### **POLICY STATEMENT:**

Lincoln Municipal Code (LMC) Section 8.02.030 establishes that it is unlawful for any person to permit, keep, maintain, or allow any 'health and safety hazard'. Any condition that is detrimental to, or causes an unreasonable threat to the public health or the environment, constitutes a health and safety hazard.

The purpose of this policy is to ensure:

- 1) That complaints of health and safety hazards are addressed in a fair and consistent manner;
- 2) That health and safety hazards are resolved, and that a return to compliance is achieved in a fair, consistent, and timely manner;
- 3) That investigating staff properly document all relevant information.

### **PROCEDURES:**

#### **I. Complaint Intake and Determination of Health and Safety Hazards**

- A. Department staff shall attempt gather and document the following information:
  1. The name and contact information for the complainant;
  2. The date, time, and location of the alleged health and safety hazard;
  3. A brief description of the nature and apparent cause of the alleged health and safety hazard; and
  4. All health impacts described by the complainant. If the complainant is experiencing any detrimental health effects, staff should advise the complainant to contact his or her medical care provider, as appropriate. If the complainant is unable to speak or breathe, staff shall proceed as follows:
    - a. Record the complainant's telephone number via caller identification;
    - b. Inform the complainant that staff will transfer his/her call to emergency services, and advise the complainant to remain on the line during the transfer;
    - c. Advise the complainant to call '911' if the call transfer fails;
    - d. Advise the complainant to vacate the area and seek clean air, if feasible; and
    - e. Transfer the call to emergency services. If the transfer fails, staff shall call 911 and inform emergency services of the call, and the concerns identified.
- B. Prior to investigating a complaint of an alleged health and safety hazard, staff should check the electronic complaint tracking system to determine if any prior complaints have been filed at the provided location.

**II. Initial Complaint Response and Investigation**

- A. Staff shall respond as quickly as is practicable during regular work hours. Staff should bring the following supplies/equipment when conducting an inspection or investigation:
  - 1. Department-issued identification and business card(s);
  - 2. Writing instrument, clipboard, and all necessary forms and fact sheets;
  - 3. Any personal protective equipment (PPE) deemed necessary based on information gathered from the complainant; and
  - 4. Any air monitoring equipment deemed necessary (e.g. portable monitors for carbon monoxide, hydrogen sulfide, ammonia, VOCs, etc.);
  - 5. Digital camera and/or video recorder; and
  - 6. Cell phone.
- B. Upon arriving at the location, staff shall show his/her identification to the owner/manager, provide the owner/manager with a business card, and investigate the source of the alleged health and safety hazard.
- C. Staff may find it necessary to consult with the Air Quality Program (AQP) Supervisor and/or the Environmental Public Health (EPH) Division Manager to determine whether the conditions present constitute a health and safety hazard.

**III. Complaint Investigation – Alleged Condition Is Not Observed**

- A. If staff determine that conditions observed do not constitute a health and safety hazard, staff shall inform the property owner/manager of the findings then gather and document the following information:
  - 1. Property owner/registered agent or manager name and phone number;
  - 2. The date and time of contact; and
  - 3. Results of all observations made during the course of the investigation, including the absence of a health and safety hazard.
- B. Upon returning to the office, staff shall proceed to item **V. Documentation**. Staff should contact the complainant and inform him or her that the conditions observed during the investigation do not constitute a health and safety hazard, and thus do not warrant action by the Health Director.

**IV. Complaint Investigation – Alleged Condition Is Observed**

- A. If staff determine that conditions observed constitute a health and safety hazard, staff shall:
  - 1. Advise the owner/manager that a health and safety hazard has been identified
  - 2. Gather and document the following information:
    - a. Property owner/manager name and phone number;
    - b. The date and time of contact with the owner/manager ; and
    - c. Results of all observations made during the course of the investigation, including the presence of a health and safety hazard, as well as the source and/or cause of the health and safety hazard.
  - 3. Issue an AQP “OFFICIAL NOTICE” to the owner/manager of the establishment. The first “OFFICIAL NOTICE” may be issued as a ‘warning’, consistent with in Attachment A of this policy. The owner/manager shall be informed of his/her duty to immediately discontinue the activity(s) that are causing or contributing to the health and safety hazard.

4. Consult with the AQP Supervisor and/or the EPH Division Manager to determine whether it is appropriate to direct the owner/manager to evacuate employees and/or customers from the establishment, and whether to contact emergency services to aide in any such evacuation effort.
5. Once the health and safety hazard has been addressed satisfactorily, proceed to item **V. Documentation**.
6. If the owner/manager fails or refuses to discontinue the activity(s) that are causing or contributing to the health and safety hazard, staff shall issue an "OFFICIAL NOTICE" as a 'violation' to the owner/manager. Staff shall consult with the AQP Supervisor and/or the EPH Division Manager to determine whether it is appropriate to coordinate response with the law enforcement agency and/or the fire and rescue agency with jurisdiction over the location of the hazard, and/or whether to pursue enforcement for the violation through the City or County Attorney's office. If it is determined that such enforcement is warranted, staff shall proceed as follows:
  - a. Staff shall draft an 'Arraignment Report' within 15 days of reaching a decision to pursue enforcement;
  - b. Staff shall route the 'Arraignment Report' to the AQP Supervisor, the EPH Division Manager, and the Air Pollution Control Officer (Health Director) for review and approval; and
  - c. Once approved by the AQP Supervisor, the EPH Division Manager, and the Air Pollution Control Officer (Health Director), the 'Arraignment Report' shall be routed to the City or County Attorney's office (as appropriate) by the Health Director's support staff.

**V. Documentation**

- A. When opening or updating a complaint case in the electronic complaint tracking system, staff shall:
  1. Document all information required under items III.A.
  2. Document all communication (in-person, phone, e-mail, or written) that takes place during the investigation, as well as any follow-up communication that may take place with the complainant and/or the alleged violator.
  3. Upload any photos taken, as well as scanned copies of any letters or official notices that are issued.
- B. If the initial complaint investigation indicates that the alleged condition(s) was not present, or if the alleged condition(s) was resolved, then the investigating staff shall close the case.
- C. If the decision is made to pursue enforcement through the City or County Attorney's office, staff shall continue to document any communication that takes place, and upload any documents relevant to the case to the electronic record. Upon final resolution of the enforcement case, staff shall close the case in the electronic complaint tracking system.

## Attachment A



## LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT

3140 N Street, Lincoln, NE 68510

(402) 441-8000 lincoln.ne.gov/health

## OFFICIAL NOTICE

Name: Johnathan SmithAddress: 555 Faux StreetCity/State/ZIP: Lincoln, NE 65810Date: 4-1-2015 Time: 2:37 ☐ AM ☒ PMLocation: same as address

**YOU ARE HEREBY NOTIFIED THAT YOU ARE ALLEGED TO BE IN VIOLATION OF CITY/COUNTY HEALTH CODES AND/OR LINCOLN-LANCASTER COUNTY AIR POLLUTION CONTROL PROGRAM REGULATIONS AND STANDARDS, AS INDICATED BELOW:**

- ☐ Causing or permitting an air pollution nuisance.
- ☐ Causing or permitting fugitive dust to be emitted in such quantities that it is visible beyond the premises.
- ☐ Causing or permitting the prohibited open burning of refuse materials.
- ☐ Causing or permitting an odor nuisance.
- ☐ Causing or permitting smoking in a public place (non-compliant smoking area).
- ☐ Causing or permitting a noise disturbance.
- ☐ Causing or permitting stack emissions of greater than or equal to 20% opacity as measured by Method 9.
- ☐ Failure to operate control equipment as required by a valid permit.
- ☐ Failure to obtain a required air quality construction and/or operating permit.
- ☒ Other: LMC 8.02.030 paragraph (10) - maintaining a health and safety hazard

☒ **WARNING** The conditions must be corrected within \_\_\_\_\_. Failure to correct said conditions may result in referral to the City or County Attorney, or in the issuance of a Complaint and Order. Charges may be brought against you in County Court, District 3.

☐ **VIOLATION** This matter may be referred to either:

- ☐ The Health Director for issuance of a Complaint and Order; or
- ☐ The City or County Attorney. If charges are brought against you in County Court, District 3, the Attorney's Office will advise you of your court appearance date.

**I acknowledge receipt of this notice.**

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☒ Owner ☐ Occupant ☐ Manager/Supervisor ☐ Employee ☐ Other

Environmental Health Specialist / Engineer

Phone Number

